

UNITED STATES COURT OF APPEALS
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE: LOWER MANHATTAN DISASTER SITE
LITIGATION

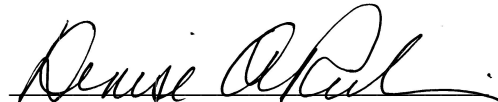
DOCKET NO.: 21MC102 (AKH)

NOTICE OF APPEAL
-----X

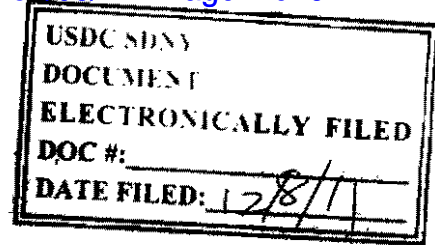
PLEASE TAKE NOTICE that the Plaintiffs listed in the attached Addendum A to the Order dated December 8, 2011 for the 21MC102(AKH) docket hereby Appeal to the United States Court of Appeals for the Second Circuit from the December 8, 2011 Order (Document No. 4143 in 21MC102[AKH]) that *inter alia* denied plaintiffs' motion for a further extension of their time to comply with the Court's Order for new Certifications of their discovery responses and upon such denial, directed that one hundred seventy plaintiffs' complaints be dismissed. Plaintiffs appeal from each and every part of said Order.

Dated: New York, New York
January 5, 2012

WORBY GRONER EDELMAN & NAPOLI BERN, LLP
Counsel for Appealing Plaintiffs


Denise A. Rubin (DR5591)

350 Fifth Avenue, Suite 7413
New York, New York 10118
Phone: (212) 267-3700
Fax: (212) 587-0031



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
IN RE WORLD TRADE CENTER LOWER :
MANHATTAN DISASTER SITE LITIGATION :

ORDER DENYING
PLAINTIFFS' MOTION TO
EXTEND THE DEADLINE FOR
CERTIFICATIONS, AND
DISMISSING CASES

: 21 MC 102 (AKH)
:

----- x
ALVIN K. HELLERSTEIN, U.S.D.J.:

WHEREAS Plaintiffs represented by Worby Groner Edelman & Napoli Bern, LLP have moved for a further enlargement of time, to January 2, 2012, for 170 identified Plaintiffs¹ to provide duly sworn or certified answers to court-ordered interrogatories;

WHEREAS Plaintiffs have been under order to do so since at least an Order of August 29, 2011;

WHEREAS, by Orders of September 28, 2011, October 31, 2011, and November 8, 2011, I enlarged Plaintiffs' time to comply until November 14, 2011, advising Plaintiffs that if they failed to comply their complaints were subject to dismissal; and

WHEREAS by Order of November 17, 2011 I again enlarged time, to December 2, 2011, and provided that no further enlargements would be granted;

THEREFORE I deny Plaintiffs' Motion for an Order Further Extending Time, and I dismiss the 170 cases, identified on Exhibit A attached hereto, with prejudice, for failure to prosecute their cases consistent with court orders. These Plaintiffs have been indifferent to court orders, despite repeated adjournments. All but a few of the 170 cases are three to five years old. Despite electing not to settle and to continue with their cases, these Plaintiffs have

¹ These Plaintiffs are listed on Exhibits 8 and 9 of Plaintiffs' December 3, 2011 Motion For An Order Further Extending The Time For Certain Plaintiffs To Provide Updated Certifications.

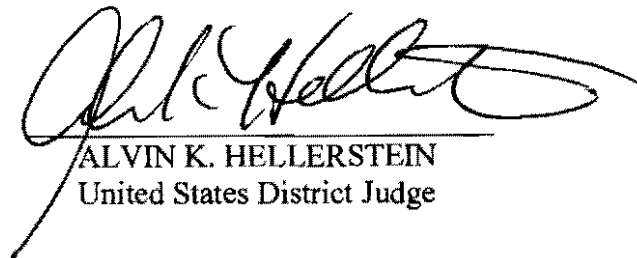
done nothing to proceed further, notwithstanding court orders to do so. Even though these 170 cases are not among those selected for more intensive deposition proceedings, the failure of these Plaintiffs to provide reliable information about the merits of their cases and the extent of their injuries, if any, proximately resulting from their work at the WTC site in the period following the terrorist-related aircraft crashes of September 11, 2001, prejudices all cases.

Plaintiffs affected by this order, should they wish to move to open the judgment dismissing their cases, must file proper motions by Jan 2, 2012 showing a ground provided by Rule 60(b), Fed. R. Civ. P. In light of all the considerations surrounding these cases and in light of the succession of prior enlargements of time, any longer period likely will be considered unreasonable.

SO ORDERED

Dated:

December 5, 2011
New York, New York



ALVIN K. HELLERSTEIN
United States District Judge

EXHIBIT A

Aalhue	Richard	06cv11897
Abatz	John	07CV05333
Agudelo	Maria	07CV05334
Agudo	Claudio	07cv04447
Alfaro Lobo	Miguel	08CV02557
Ali	Enrique	07cv01554
Arbelaez	Ignacio	08CV02561
Asmal	Carlos	07cv01462
Avila	Luis	07cv04450
Azubike	Victor	07CV09058
Barcco-Wong	Stalin	07CV04293
Barriga	Mercedes	08CV02567
Betancourt	Hector	07cv04453
Cabrera	Marbin	08CV02581
Cabrera	Oswaldo	07CV05551
Carchi	Mauricio	08CV02586
Carpio	Jose	07cv01479
Carrasco	Heman	08CV02589
Cayetano	Teresita	07CV05282
Chaca	Wilson	07CV01583
Chun	William	06cv11989
Cifuentes	Maria del Pilar	07CV01590
Conforme	Freddy	07CV05552
Datil	Leonor	07cv01488
Diez	Rosa	07CV05352
Dowling	John	06cv09038
Easterling	Willie	06CV09542
Encalada	Luis	07CV05354
Espinosa	Enny	06cv13890
Flores	Talia	07CV01609
Franco	Luis	07cv04466
Galiano	Cruz	08CV02622
Gallo	Juan	06cv14670
Garcia	Isabel	07cv08281
Garcia	Luis	07cv01501
Graziano	Anthony	06cv14694
Guzman	Eric	07cv01506
Harris	Michele	06cv14711
Jenkins	Christopher	08CV05931
Jimenez	Rafael	07CV10784
Kuhn	Douglas	08CV02644
Lenis	Carlos	06cv10045
Leroux	Ivonne	06cv12772
Liguori	Jerry	06CV08447
Llibri	Pascual	07CV01651
Loja	Wilmo	07cv04482
Londono	Adriana	08CV02646
Lopez	Adolfo	10cv07154
Medina	Diego	08CV02290

Moran	Wilson	06CV12341
Narvaez	Rosa	08CV02670
Negron	Aurea	06CV12368
Niskanen	David	06CV12377
Orellana	Aurelio	07CV01674
Orellana	Edgar	07CV05398
Orozco	Rafael	08CV02299
Ortiz	Rosa	07CV01676
Padredin	Nayibe	07CV05306
Paduani	Miguel	07CV05307
Palma	Patricia	06cv03932
Palomeque	Henry	08CV02244
Pelaez	Inez	08CV02682
Pena	Luis	05cv10741
Perez-Sanchez	Maribel	08CV02687
Prada	Maria del Pilar	06cv02692
Rando	Dennis	07CV10624
Rendon	Guelmer	07cv04510
Reyes	Marilan	07CV05310
Rodas	Hugo	08CV02698
Rodriguez-Jomarron	Olga	08CV02699
Sanchez	Oscar	06cv11892
Sarmiento	Galo	07cv01529
Silva	Ligia	08CV02716
Solarte	Maria	07cv01669
Solis	Lucio	05CV01198
Urena	Clemente	07cv01540
Urgiles	Miguel	07CV05400
Urquijo	Esperanza	06CV13211
Valdiviezo	Hector	07cv01542
Velarde	Felix	07cv01544
Villavicencio	Oswaldo	08CV02315
Yaguana	Aquiles	07cv04525
Yumbia	Alcibar	07cv01729
Yumbia	Luis	06CV13166
Zolfo	Vincent	06cv12843

Acosta	Byron	07CV01552
Alfonso	Pedro	08CV02252
Arias	Arturo	07CV05274
Arias	Gloria	08cv04931
Arrieta	Enrique	07cv01459
Avila	Mauricio	08CV02566
Ballesteros	Vanessa	08cv04932
Benbow	Joseph	07CV04747
Bermudez	Anita	07cv01470
Bunay	Carlos	07CV01571
Cabrera	Hugo	08CV02579
Cabrera	Wilson	07cv01474
Calle	Elva	08CV02584
Calle	Jose	07CV01577
Cannon	Russell	05cv07877
Carpio	Fausto	07cv11019
Carville	Scott	07CV05340
Castrillon	Isabel	08cv04934
Chavez	Carlos	08CV02238
Choinski	Pawel	06cv13837
Collazos	Antonio	07cv04461
Cuellar	Francisco	08CV06634
Delacruz	Belkis	08CV02263
DeLaCruz	Ofelia	08CV02606
Duque	Blanca	08CV02610
Duque	Flor	08CV02611
Franco	Herman	08CV02621
Garces	Jesus	07CV01615
Garcia	Fernando	06cv13916
Garcia	Jorge	07CV05291
Gonzalez	Gabriel	08CV13701
Gualpa	Rosa	07cv04472
Guaman	Enrique	08CV02633
Guzman	Felix	07CV05412
Henao	Gustavo	08cv04938
Hernandez	Nubia	08CV02636
Intriago	Ecuador	07cv04475
Jerez	Carmen	07CV05297
Juarez	Urbano	07cv01509
Khan	Imtiaz	06CV12182
Kukacki	Kazimierz	06cv14781
Londono	Gloria	08CV02648
Lopez	Angel	08CV02281
Lopez	Luz	07CV05560
Losada	Nubia	08CV02652
Lucero	Fernando	07CV05366
Marcillo	Douglas	07cv04486
Marcos	John	07cv04487
Marrero	Gloria	08CV02287
Martin	Richard	06cv08037
Melo	Alberto	08CV02657

Mendoza	Enrique	07CV05302
Mesa	Luis	07CV05303
Montenegro	Otto	06CV06018
Montoya	Sandra	08CV06636
Nino	Victor	08CV02675
Ocampo	Janneth	07CV01673
Oquendo	Walter	07cv04497
Orellana	Cristobal	07CV05563
Ortega	Mariana	05CV01765
Ortega	Sandra	07CV01675
Pepe Jr	Joseph	09CV02777
Pigott	John	06cv14970
Pillco	Luis	07cv04508
Ramirez	Freddy	05CV05601
Rico	Alejandra	08cv05857
Rodriguez	Manuel	08CV02700
Rosario	Carmen	09CV02811
Ruales	Glenda	08CV02704
Rudder	Anthony	07CV01698
Santana	Hilda	08CV11456
Sarmiento	Javier	06cv12495
Schuler	Steven	07CV05425
Silva	Carlos	06cv02664
Tehan	Nicholas	07CV05564
Tenempaguay	Wilfrido	07CV05320
Toledo	William	07cv01539
Torres	Javier	08CV02725
Varicelly	Cecilia	07cv01720
Vega	Severo	07cv04521
Velasquez	Fredy	06cv11141
Velez	Jazmin	08CV02731
Victoria	Maritza	08cv04943
Yamasqui	Armando	07CV05328
Yepes	Maria	08CV02251

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE: LOWER MANHATTAN DISASTER SITE
LITIGATION
-----X

DOCKET No.: 21MC102(AKH)
DECLARATION OF SERVICE

DENISE A. RUBIN, an Attorney duly licensed to practice before the Courts of the State of New York and a member of the Bar of this Honorable Court, hereby Declares under penalty of perjury:

On January 5, 2012, I duly served a true copy of the within NOTICE OF APPEAL on the persons listed below by e-mail transmission.

Tyrrell, James E.
Patton Boggs, LLP
Counsel for Defendants-Appellants
One Riverfront Plaza, 6th floor
Newark, New Jersey 07102
Jtyrrell@pattonboggs.com

Margaret Warner, Esq.
McDermott Will & Emery, LLP
Counsel for WTC Captive Insurance Co., Inc.
600 13th Street, N.W.
Washington, D.C. 20005-3096
mwarner@mwe.com

Andrew J. Carboy, Esq.
Sullivan Papain, Block, McGrath & Cannavo, P.C.
Plaintiffs' Co-Liaison Counsel
120 Broadway
New York, New York 10271

Robert Grochow Esq.
Robert A. Grochow, P.C.
233 Broadway, 5th Floor
New York, New York 10279

Gregory J. Cannata, Esq.
The Law Firm of Gregory J. Cannata
The Woolworth Building
233 Broadway, 5th Floor
New York, New York 10279



DENISE A. RUBIN

UNITED STATES COURT OF APPEALS
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE: LOWER MANHATTAN DISASTER SITE
LITIGATION
-----X

DOCKET NO.: 21MC102(AKH)

PLAINTIFFS' NOTICE OF APPEAL

=====

WORBY GRONER EDELMAN & NAPOLI BERN, LLP

Counsel for : Appealing Plaintiffs
350 Broadway, Suite 7413
New York, New York 10118
(212) 267-3700

=====

The undersigned attorney hereby certifies, pursuant to Fed. R. Civ. P. 11 and 22 NYCRR §130-1.1-a, that I have read the within papers and that to the best of my knowledge and belief they are not frivolous as that term is defined in 22 NYCRR § 130-1.1(c) and Fed. R. Civ. P. 11.



Attorney name: Denise A. Rubin

=====

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of an _____ duly entered in the _____ office
of the clerk of the within named court on _____ 200__.

☐ NOTICE OF SETTLEMENT

that an order _____ of which the within is a true copy, will be
presented for settlement to the HON. _____ one of the judges of the
within named Court, at _____ on _____ 200__ at _____ O'clock ____M.

Dated, _____

Yours, etc.

WORBY GRONER EDELMAN & NAPOLI BERN, LLP